

REMARKS on CORRECTING FORMAL DEFICIENCIES

Claim 4 is cancelled and replaced with new claim 5, which contains slight revisions to claim 4. Let me point out the revisions and why these revisions were made.

Preamble: I inserted language that states that the claimed method is for operating a machine (and therefore not to be implemented via pencil and paper). Thus, the claimed method falls into the Process category of statutory subject matter. I followed the form of a fairly well known patent, U.S Patent 5,794,207. I am open to the examiner's suggestions for improving the phrasing more. I also inserted the word "target" to further explain the purpose of the method: paying targeted audiences for attention.

Paragraph (a): I inserted the phrasing of "using the computer" to conform to the preamble. I inserted the word "target" to emphasize that the process enables an advertiser to make an offer to a target audience.

Paragraph (b): No changes.

Paragraph (c): I delete the phrase about an EV being "immediately visible as equivalent to cash" because it is superfluous and does not appear in the specification.

Paragraph (d): I added this paragraph so that part of the inventive process, described in the specification on p. 27, is making an offer accessible to potential recipients of payment.

Paragraph (e) formerly (d): No changes.

Paragraph (f) formerly (e): No changes.

Paragraph (g) formerly (f): No changes.

Paragraph (h) formerly (g): I changed the phrase "alerting an inspection process" to "passing the winning result to an inspection process," which appears in the specification on page 40. I don't think there is any real difference in the two phrasings, though.

Paragraph (i) formerly (h): I changed the phrase “providing the payoff” to “notifying a payment process to provide the payoff,” in order to copy the phrasing in the specification on page 42. I don’t think there is any real difference in the two phrasings.

Whereby Clause: I added this clause to more clearly point out the useful result of the inventive process – paying *only* qualified, targeted recipients for their attention.

REMARKS on the PRIOR ART

Discussion of Goldhaber

Goldhaber et al. U.S. Patent No. 5,855,008 was cited in the rejection of the cancelled claim.

Goldhaber is somewhat similar to the claimed invention because Goldhaber teaches a system for paying recipients of ad messages for their attention.

The title of Goldhaber is *Attention Brokerage*. Its object is to have people enter their profile data into a database and then let Goldhaber's broker system enable advertisers to offer payment to those people according to their profiles.

So, a foundational part of Goldhaber's invention is the entering of profile data and the providing of advertising and payment to users based upon referencing their profiles:

- See Claim 1, the sole independent claim, col. 21 lines 25-39
- See Abstract, lines 9-11
- See the Description Section, col. 6, line 28 to col. 7 line 45
- See the Description Section, col. 13 line 37-41
- See Drawings 7 and 11A that show profile blocks as a key part of the system.

There are critical differences between my claimed invention and Goldhaber:

1. My invention does not employ or enable the selling of profile data collected from ad recipients. Nowhere in the claim does a potential recipient of a message enter profile data, which is then sold to advertisers who then direct an ad to a user. My claimed invention is a seller-offer method, in which sellers post offers. Recipients can accept the offers and receive *virtual* EV payment upon exposure to a message.
2. My invention pays recipients *actual* payment only if they pass an inspection process. This inspection accomplishes an essential, useful object of the invention, which is to qualify (authenticate) recipients, as stated in the title of the invention, *Expected Value Methods and Systems for Paying and Qualifying*. Goldhaber does not have an inspection or authentication process. His profile data are not authenticated!

3. My invention provides for the further useful result of *efficient* qualification (authentication), due to the use of probabilistic selection of inspected recipients. Goldhaber, as noted, does not have qualification (authentication).
4. My invention uses an efficient, probabilistic micropayment method. A prime object of my invention – as reflected in its title – is to pay efficiently, and, to combine payment with efficient qualification. This micropayment method is essential to this object. Goldhaber does not use this micropayment method.

Discussion of Kohorn

Kohorn et al. U.S. Patent No. 5,508,731 was cited in the rejection of the cancelled claim.

Kohorn teaches a method for providing a sweepstakes, displayed via TV or radio broadcast and entered (participated in) using telephone or other channel.

A sweepstakes provides prizes based on probabilistic selection, and, as noted in the Office Action (see the last two sentences of Page 4), this payment method could have been combined with Goldhaber's payment for attention.

Noted in the Office Action were column 117 lines 45-67 in which probabilities of a person winning a sweepstakes can be adjusted based on a player's score in a game.

Kohorn has 199 claims. A review of all these claims reveals critical differences between my claimed invention and Kohorn:

1. Nowhere does Kohorn offer payment or prizes based upon audience characteristics that an advertiser sets. Kohorn does not appear to discriminate among audience members except to favor those who perform well in a game. An essential process of my invention is to enable an advertiser to pay only recipients who match targeting criteria that are specified by the advertiser.
2. Nowhere does Kohorn make a payment or prize offer contingent upon exposure to an ad message. My invention is method for enabling advertisers to pay for attention contingent on exposure to a particular ad (message).
3. Nowhere does Kohorn provide an inspection or authentication process that checks whether winning audience members match characteristics set by advertisers. (Kohorn teaches verifying whether a sweepstakes game player has provided correct answers.) An essential, useful process of my invention is an inspection process for authenticating that recipients of actual payment match targeting criteria specified by advertisers.

4. Nowhere does Kohorn disclose offering EV payments. An EV payment tells a recipient the cash value of a probabilistic payment offer, and is very different from a sweepstakes offer. The fact that large prizes can be used in sweepstakes and in an EV payment is not the critical factor. An EV payment is meaningful in and of itself to recipients, separate from a payoff. The main economic question for recipients of probabilistic payment is not *What is the value of the payoff?* It is *What is the value of the chance to win the payoff?*

Discussion of the Combination of Goldhaber and Kohorn

According to the Office Action, “It would have been obvious...to combine Goldhaber’s payment for attention and Kohorn’s awarding listeners and viewers and randomly determining winners within pre-determined parameters.”

But, the combination of Goldhaber + Kohorn does not achieve the result of my claimed invention because both Goldhaber and Kohorn are missing critical processes of the claimed invention, as discussed above. Thus, the combination is missing these processes:

1. Both are missing a process for enabling an advertiser to direct payment to desired recipients, except by the use of profiles. Profiles are not part of my invention.
2. Both are missing an inspection (authentication) process for verifying the targeting qualifications of recipients who are paid actual payment. Inspection of a recipient’s targeting qualifications is essential to my invention and provides the useful and tangible result of ensuring to advertisers that their money is directed as intended.
3. Both are missing the EV payment process, which enables both efficient payment and efficient inspection/qualification of recipients of actual payment.

The illustration below shows how my claimed invention differs from Goldhaber + Kohorn.

Illustration of Difference Between Claimed Invention and Goldhaber + Kohorn

Let us take the example of an advertiser who wants to direct an ad about buying USPTO T-shirts to Patent Examiners employed by the USPTO.

Using Goldhaber, ad and payment recipients fill out a profile, which includes occupation.

Then, advertisers provide an ad to Goldhaber’s system and ask Goldhaber’s brokerage to direct the ad to users who stated in their profiles that they were USPTO Patent Examiners.

Then, using Kohorn, recipients are offered a sweepstakes with a payoff of, say, \$500.

Here are problems with this approach:

1. An ad recipient has the burden of filling out a profile, which can include any number of descriptions of oneself. For example, a person could fill out not only age, sex occupation and income, typical demographic categories, but any number of other descriptions of oneself, such as all the schools one attended, what kind of insurance one has, what kind of apartment, what kind of mortgage, what kind of car – many, many aspects of a person’s life that could be of interest to advertisers. Few people are willing to fill out lots of information about themselves. In fact, Goldhaber’s system was tried in the market (www.cybergold.com, now defunct) and flopped.
2. For an ad recipient, there is another problem. Using Kohorn, the recipient is paid with a chance to win a prize, possibly a large prize. But so what? The recipient has no idea how much the chance is worth. Sweepstakes hide their true expected value because they are worth so little. The average sweepstakes chance in the U.S. is worth less than a penny! *Indeed, the chance to win a large prize doesn’t tell one anything really.* For example, if a person receives a sweepstakes piece from McDonald’s, what is that piece worth?
3. For an advertiser, a critical flaw of Goldhaber + Kohorn is that the advertiser provides money to recipients but has no way of knowing if the recipients actually match what they have stated in their profile. *There is no assurance that a person who enters “USPTO Patent Examiner” into a profile is a Patent Examiner!*

By contrast:

1. My claimed invention enables an advertiser to set the conditions of a targeted recipient offer. For example, an advertiser can put on a patent website an offer to pay USPTO Patent Examiners \$1 EV to read a message (for instance, the payoff might be \$500, with a 1/500 chance of winning).

2. Recipients of payment see exactly what they are receiving in terms of cash value – a virtual payment of \$1 EV that has a mathematically equivalent cash value of \$1.
3. After recipients are exposed to the specified ad, the EV payment process randomly selects *provisional* winners of a payoff. Then an inspection/qualification process occurs so that if a winner claims a payoff, she is inspected to verify that she is a USPTO patent examiner. If she fails the inspection, she gets nothing. If she passes, she receives actual payment, the payoff. This inspection/ qualification provides a useful result: *an advertiser's money goes only to recipients who are authenticated to match the advertiser's target audience conditions.*

Thank you for your consideration to this communication and for your previous comments, which have improved my claim.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Thompson".